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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2012-62

12 **TAMI JO BATTENFIELD**
13 **aka TAMI JO MOORE**
aka TAMI JO PUCKETT
14 12503 Catskill Drive
Bakersfield, CA 93312

A C C U S A T I O N

15 Registered Nurse License No. 410383

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about March 31, 1987, the Board issued Registered Nurse License No. 410383
23 to Tami Jo Battenfield aka Tami Jo Moore aka Tami Jo Puckett (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on February 28, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license. . . .”

3 8. Section 2764 provides that the expiration of a license shall not deprive the Board of
4 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
5 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
6 expired license at any time within eight years after the expiration.

7 **COST RECOVERY**

8 9. Section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

13 10. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code
14 section 11055(c)(8) and is a dangerous drug pursuant to section 4022.

15 11. Morphine/Morphine Sulfate, a narcotic substance, is a Schedule II controlled
16 substance pursuant to Health and Safety Code Section 11055(b)(1)(M) and is a dangerous drug
17 pursuant to section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Obtain / Possess / Use Controlled Substances)**

20 12. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
21 2762, subdivisions (a) and / or (b), on the grounds of unprofessional conduct, in that on or
22 between 2006 and 2007, while employed and on duty at Kern Medical Center in Bakersfield,
23 California, as a registered nurse in the hospital's ICU providing care on severely injured critical
24 patients illegally obtained possessed/diverted and used controlled substances. The circumstances
25 are as follows:

26 a. In and between 2006 – 2007, Respondent regularly had obvious changes of behavior
27 while on duty as a registered nurse, being “normal” at the beginning of her shift to exhibiting
28 signs and symptoms of being under the influence as the day progressed. Charge nurses observed

1 changes during the day in Respondent's charting legibility. Respondent would disappear for long
2 periods of time, and upon returning would have slurred and difficult to understand speech.
3 Respondent's gait was unsteady where she would hold onto furniture and even fall at times.
4 Respondent would sleep at her desk, laying her head down. Once, Respondent was observed
5 drinking a container of salad dressing thinking it was her beverage. At times, Respondent was
6 sent home due to her inability to tend to her patients. For fear of Respondent obtaining narcotics
7 directly from patient drip bags, specifically Fyntenol, each time one of Respondent's patients
8 were taken out of their rooms for surgery or tests, hospital staff resolutely secured Respondent's
9 patient medication bags as they did not feel comfortable with Respondent having access to the
10 patient narcotics.

11 b. In or about February 2007, while on duty, Respondent was reported as having slurred
12 speech, appearing "sleepy," unable to focus on her work as a staff nurse in the ICU, and unable to
13 perform her duties safely.

14 c. On or about April 19, 2007, Respondent was reported as displaying suspicious
15 impaired behaviors, obvious signs and symptoms of being under the influence of drugs: unstable
16 gait, bumping against walls, falling asleep while attempting to eat her lunch, missing her mouth
17 with a spoonful of food, disappearing from the unit for unexplained periods of time, and asking
18 the same question multiple times in a short period of time, even after the initial question was
19 answered. Respondent was escorted from her on-duty position and interviewed. Respondent was
20 observed as not having an odor of alcohol and was suspected to be under the influence of
21 narcotics. Respondent failed to deny the observed symptoms and refused to submit to a
22 reasonable drug screen about 11-13 times, stating she would rather resign than submit to a drug
23 screen. Respondent was placed on paid administrative leave.

24 d. On or about April 25, 2007, a Complaint against Respondent was filed with the Board
25 by one of Respondent's co-workers.

26 e. On or about April 30, 2007, in lieu of a Notice of Intended Disciplinary Action –
27 Termination of Employment for failing to comply with the County of Kern's Drug – Alcohol
28 Policy, Respondent resigned her position as a Hospital Staff Nurse at Kern Medical Center.

1 f. On or about July 12, 2007, Respondent was accepted into the Board's Diversion
2 Program.

3 g. On or about July 9, 2009, Respondent was terminated unsuccessfully from the
4 Board's Diversion Program for failure to comply with the provisions of the rehabilitation plan.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct / Violate Act)**

7 13. Respondent is subject to disciplinary action under section 2761, subdivision (a) and /
8 or (d), in that Respondent committed acts of unprofessional conduct and / or violations of the
9 Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set
10 forth above in paragraph 12, subparagraphs a - g, inclusive, as though set forth fully.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License No. 410383, issued to Tami Jo
15 Battenfield;

16 2. Ordering Tami Jo Battenfield to pay the Board the reasonable costs of the
17 investigation and enforcement of this case, pursuant to section 125.3; and

18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: July 28, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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